

AMENDED IN SENATE MAY 10, 2005  
AMENDED IN SENATE APRIL 25, 2005  
AMENDED IN SENATE MARCH 30, 2005

**SENATE BILL**

**No. 125**

**Introduced by Senator Dutton**

January 31, 2005

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An act to amend Sections 798.36 and 798.55 of the Civil Code, relating to mobilehomes.

LEGISLATIVE COUNSEL'S DIGEST

SB 125, as amended, Dutton. Mobilehome parks: fees and charges.

(1) Existing law regulates the terms and conditions of residencies in mobilehome parks. Existing law prohibits the management of a mobilehome park from charging a fee for the enforcement of a rule or regulation of the park, except that management may charge a reasonable fee for the maintenance of the land and premises where the mobilehome is situated if the homeowner fails to do so, as specified.

This bill would specify that the management of a mobilehome park may charge a reasonable fee for cleanup of the land and premises if the homeowner fails to do so.

This bill would also permit management, upon its good faith determination, to remove and store homeowner and resident personal property, *after specified notice*, if it is necessary to bring the premises into compliance with the reasonable rules and regulations of the park *or state law*. The bill would provide that the homeowner or resident is responsible for reimbursing to management the actual, *reasonable* costs of removing and storing the property ~~and other costs imposed by management in correcting the rules violation associated with the removal and storage of the property~~. The bill would provide that these

costs are deemed reasonable incidental service charges, which management can collect pursuant to a specified process. The bill would permit the management to dispose of the property in any manner if the homeowner or resident does not claim the property and reimburse management within ~~30~~ 60 days. The bill would provide a process for applying the proceeds of any sale or auction of the property to the costs described above.

(2) Existing law prohibits termination of a tenancy in a mobilehome park except for specified reasons. Existing law requires management of a mobilehome park to fulfill specified notice provisions when terminating a tenancy. Existing law prohibits management of a mobilehome park from charging a fee for other than rent, utilities, and incidental reasonable charges for services actually rendered.

This bill would provide that the cost incurred by management of a mobilehome park in obtaining a title search on a homeowner's mobilehome for the purpose of complying with the notice requirements, as described above, ~~is a reasonable incidental service charge for which management may charge the homeowner~~ is recoverable as a cost of suit if management obtains a court judgment against the homeowner or resident.

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 798.36 of the Civil Code is amended to  
2 read:  
3 798.36. (a) A homeowner shall not be charged a fee for the  
4 enforcement of any of the rules and regulations of the park,  
5 except a reasonable fee may be charged by management for the  
6 maintenance or cleanup, *as described in subdivision (b)*, of the  
7 land and premises upon which the mobilehome is situated in the  
8 event the homeowner fails to do so in accordance with the rules  
9 and regulations of the park after written notification to the  
10 homeowner and the failure of the homeowner to comply within  
11 14 days. The written notice shall state the specific condition to be  
12 corrected and an estimate of the charges to be imposed by  
13 management if the services are performed by management or its  
14 agent.

(b) (1) If management determines, in good faith, that the removal of a homeowner's or resident's personal property, ~~other than the mobilehome or its appurtenances or accessory structures, is necessary to bring the premises into compliance with the reasonable rules and regulations of the park, from the land and premises upon which the mobilehome is situated is necessary to bring the premises into compliance with the reasonable rules and regulations of the park or the provisions of the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code) or Title 25 of the California Code of Regulations,~~ management may remove the property to a reasonably secure storage facility. Management shall provide written notice of at least 14 days of its intent to remove the personal property, including a description of the property to be removed. *The notice shall include the rule, regulation, or code justifying the removal and shall provide an estimate of the charges to be imposed by management. The property to be removed shall not include the mobilehome or its appurtenances or accessory structures.*

(2) The homeowner or resident shall be responsible for reimbursing to management the actual, reasonable costs, if any, of removing and storing the property. These costs, ~~and all other costs imposed~~ *incurred* by management in correcting the rules violation associated with the removal and storage of the property, are deemed reasonable incidental service charges and may be collected pursuant to subdivision (e) of Section 798.56 *if a notice of nonpayment of the removal and storage fees, as described in paragraph (3), is personally served on the homeowner.*

(3) Within seven days from the date the property is removed to a storage area, management shall provide the homeowner or resident a written notice that includes an inventory of the property removed, the location where the property may be claimed, and notice that the cost of removal and storage shall be paid by the resident or homeowner ~~when the property is claimed.~~ If, ~~within 30~~ *60* days, the homeowner or resident does not claim the property ~~and reimburse to management the costs of the removal and storage and all other costs imposed by management in correcting the rules violation associated with the removal and storage of the property,~~ the property shall be deemed to be abandoned, and management may dispose of the property in any

1 manner. *The homeowner's or resident's liability for storage*  
2 *charges shall not exceed 60 days. If the homeowner or resident*  
3 *claims the property, but has not reimbursed management for*  
4 *storage costs, management may bill those costs in a monthly*  
5 *statement which shall constitute notice of nonpayment, and the*  
6 *costs shall become the obligation of the homeowner or resident.*  
7 *If a resident or homeowner communicates in writing his or her*  
8 *intent to abandon the property before 60 days has expired,*  
9 *management may dispose of the property immediately and no*  
10 *further storage charges shall accrue.*

11 (4) If management elects to dispose of the property by way of  
12 sale or auction, and the funds received from the sale or auction  
13 exceed the amount owed to management, management shall  
14 refund the difference to the homeowner or resident within 15  
15 days from the date of management's receipt of the funds from the  
16 sale or auction. The refund shall be delivered to the homeowner  
17 or resident by first-class mail postage prepaid to his or her  
18 address in the park, or by personal delivery, and shall include an  
19 accounting specifying the costs of removal and storage of the  
20 property, ~~and all other costs imposed incurred by management in~~  
21 ~~correcting the rules violation associated with the removal and~~  
22 ~~storage of the property,~~ and the amount of proceeds realized from  
23 any sale or auction. If a sale or auction of the property yields less  
24 than the costs incurred by management, the homeowner or  
25 resident shall be responsible for the difference, and this amount  
26 shall be deemed a reasonable incidental service charge and may  
27 be collected pursuant to subdivision (e) of Section 798.56 *if a*  
28 *notice of nonpayment of the removal and storage fees, as*  
29 *described in paragraph (3), is personally served on the*  
30 *homeowner.* If management elects to proceed under this section,  
31 it may not also terminate the tenancy pursuant to subdivision (d)  
32 of Section 798.56 based upon the specific violations relied upon  
33 to proceed under this section. *In any proceeding under this*  
34 *section, management shall bear the burden of proof that*  
35 *enforcement was undertaken in a nondiscriminatory,*  
36 *nonselective fashion.*

37 SEC. 2. Section 798.55 of the Civil Code is amended to read:

38 798.55. (a) The Legislature finds and declares that, because  
39 of the high cost of moving mobilehomes, the potential for  
40 damage resulting therefrom, the requirements relating to the

1 installation of mobilehomes, and the cost of landscaping or lot  
2 preparation, it is necessary that the owners of mobilehomes  
3 occupied within mobilehome parks be provided with the unique  
4 protection from actual or constructive eviction afforded by the  
5 provisions of this chapter.

6 (b) (1) The management may not terminate or refuse to renew  
7 a tenancy, except for a reason specified in this article and upon  
8 the giving of written notice to the homeowner, in the manner  
9 prescribed by Section 1162 of the Code of Civil Procedure, to  
10 sell or remove, at the homeowner's election, the mobilehome  
11 from the park within a period of not less than 60 days, which  
12 period shall be specified in the notice. A copy of this notice shall  
13 be sent to the legal owner, as defined in Section 18005.8 of the  
14 Health and Safety Code, each junior lienholder, as defined in  
15 Section 18005.3 of the Health and Safety Code, and the  
16 registered owner of the mobilehome, if other than the  
17 homeowner, by United States mail within 10 days after notice to  
18 the homeowner. The copy may be sent by regular mail or by  
19 certified or registered mail with return receipt requested, at the  
20 option of the management.

21 (2) The homeowner shall pay past due rent and utilities upon  
22 the sale of a mobilehome pursuant to paragraph (1).

23 (c) If the homeowner has not paid the rent due within three  
24 days after notice to the homeowner, and if the first notice was not  
25 sent by certified or registered mail with return receipt requested,  
26 a copy of the notice shall again be sent to the legal owner, each  
27 junior lienholder, and the registered owner, if other than the  
28 homeowner, by certified or registered mail with return receipt  
29 requested within 10 days after notice to the homeowner. Copies  
30 of the notice shall be addressed to the legal owner, each junior  
31 lienholder, and the registered owner at their addresses, as set  
32 forth in the registration card specified in Section 18091.5 of the  
33 Health and Safety Code.

34 (d) ~~The~~ *If management obtains a court judgment against a*  
35 *homeowner or resident, the cost incurred by management in*  
36 *obtaining a title search for the purpose of complying with the*  
37 *notice requirements of this section*~~is a reasonable incidental~~  
38 ~~service charge for which management may charge the~~  
39 ~~homeowner.~~ *shall be recoverable as a cost of suit.*

1 (e) The resident of a mobilehome that remains in the  
2 mobilehome park after service of the notice to sell or remove the  
3 mobilehome shall continue to be subject to this chapter and the  
4 rules and regulations of the park, including rules regarding  
5 maintenance of the space.

6 (f) No lawful act by the management to enforce this chapter or  
7 the rules and regulations of the park may be deemed or construed  
8 to waive or otherwise affect the notice to remove the  
9 mobilehome.